

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JAMAR BROOKS HAILEY,)
Petitioner,)
v.) 1:11CV102
UNITED STATES OF AMERICA,) 1:04CR161-1
Respondent.)

ORDER

On December 17, 2012, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. The parties subsequently filed a Joint Stipulation [Doc. #73], stating that there were no objections and waiving any time remaining for filing objections. Therefore, the Court need not make a *de novo* review and the Magistrate Judge's Recommendation [Doc. #71] is hereby adopted.

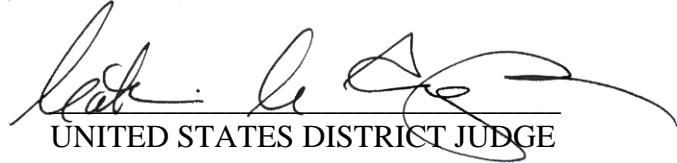
IT IS THEREFORE ORDERED that Petitioner's Motion To Vacate, Set Aside or Correct Sentence [Doc. #41], as amended [Doc. #57], is GRANTED as to his claim under United States v. Simmons, 649 F.3d 237 (4th Cir. 2011), but DENIED otherwise for being moot, that the Judgment [Doc. #31] is VACATED, and that the Clerk set this matter for resentencing in light of the Government's concession.

IT IS FURTHER ORDERED that the Government's prior Motion to Dismiss [Doc. #53] is deemed WITHDRAWN.

IT IS FURTHER ORDERED that Petitioner's "Motion Filed Pursuant to 18 U.S.C. § 3582(c)2" [Doc. #38], "Motion for Summary Judgment and Expediting of Case Pursuant to F. R.

Civ. P. 56" [Doc. #56], and "Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(2)" [Doc. #60] are DENIED for being moot.

This the 2nd day of January, 2013.



UNITED STATES DISTRICT JUDGE